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CONCORD, N.H.

Mr. Russell B. Tobey, Director
Recreation Division
State House Annex
Concord, New Hampshire

Dear Mr. Tobey:

You have requested my advice as to whether the approval of Governor and Council, required under the provisions of RSA 219:12, is necessary for each individual accommodation, service, fee or development. My answer is in the negative.

The approval of the Governor and Council is necessary in the first instance to establish an area where you may provide accommodations and render services. In addition, their approval is necessary to permit fees to be charged for said accommodations and services. However, the Governor and Council need not be required to approve each and every individual price charged for services rendered. The fact that the Governor and Council permit fees to be charged is sufficient to enable your Commission to exercise its judgment as to the amounts charged. To expect otherwise is to require the Governor and Council to perform the normal functions of the Commission.

I believe further evidence of such an overall legislative intent is indicated by RSA 227:1 relative to the Aerial Tramway and 227:8 relative to Mr. Sunapee Tramway. In both instances the Forestry and Recreation Commission decides upon the reasonableness of such fares, tolls and charges once the legislative sanction for such charges is clear.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AEB,Jr/T